



Reprinted
February 20, 2003

HOUSE BILL No. 1151

DIGEST OF HB 1151 (Updated February 19, 2003 3:53 PM - DI 44)

Citations Affected: IC 23-14.

Synopsis: Disposal of cremated remains. Makes cremation (instead of scattering of the remains) or other disposition of human remains the final disposition for purposes of the cemetery law. Provides that a person who fails to file an annual report for a crematory commits a Class A misdemeanor. Provides that a funeral home has no liability for: (1) disposing of cremated remains held in excess of 60 days; or (2) holding cremated remains in excess of 60 days; if the funeral home provides notice to the authorizing agent explaining the intentions of the funeral home.

Effective: July 1, 2003.

Lytle, Weinzapfel

January 7, 2003, read first time and referred to Committee on Courts and Criminal Code.
February 10, 2003, amended, reported — Do Pass.
February 19, 2003, read second time, amended, ordered engrossed.

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HB 1151—LS 7224/DI 110+



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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1151

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 23-14-31-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this
3 chapter, "authorizing agent" means a person legally entitled to order the
4 cremation and ~~final~~ disposition of specific human remains.
5 SECTION 2. IC 23-14-31-13 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. As used in this
7 chapter, "**final** disposition" means the cremation or other disposition
8 of a dead human body or a part of a dead human body.
9 SECTION 3. IC 23-14-31-18 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. As used in this
11 chapter, "scattering" means the ~~final~~ disposition of cremated human
12 remains under section 44(a)(3) of this chapter.
13 SECTION 4. IC 23-14-31-27 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) Except as
15 provided in subsection (c), a crematory authority shall not cremate
16 human remains until the authority has received the following:
17 (1) A cremation authorization form provided by the crematory

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1 authority, signed by an authorizing agent, containing the
2 following information:

3 (A) The identity of the human remains and the time and date
4 of death.

5 (B) The name of the funeral director who obtained the
6 cremation authorization.

7 (C) The name of the authorizing agent and the relationship
8 between the authorizing agent and the decedent.

9 (D) A statement by the authorizing agent that the authorizing
10 agent:

11 (i) has the right to authorize the cremation of the decedent;

12 (ii) is not aware of any person who has a superior priority
13 right to that of the authorizing agent; or

14 (iii) if the authorizing agent is aware that there is another
15 person who has a superior priority right to that of the
16 authorizing agent, a statement that the authorizing agent has
17 made all reasonable efforts to contact the person, has been
18 unable to contact the person, and has no reason to believe
19 that the person would object to the cremation of the
20 decedent.

21 (E) Authorization for the crematory authority to cremate the
22 human remains.

23 (F) A statement that the human remains do not contain a
24 pacemaker or any other material or implant or radiation
25 producing device that may be potentially hazardous or cause
26 damage to the cremation chamber or the individual performing
27 the cremation. The authorization form may state that the
28 funeral director is not liable for damages caused by a
29 pacemaker or other implanted device that was not disclosed to
30 the funeral director or of which the funeral director could not
31 reasonably be aware.

32 (G) The name of the funeral director authorized to receive the
33 cremated remains from the crematory authority or, if the
34 crematory is on cemetery property, the cemetery authorized to
35 receive cremated remains.

36 (H) The manner in which ~~final~~ disposition of the cremated
37 remains is to take place, if known. If the cremation
38 authorization form does not specify ~~final~~ disposition in a
39 grave, niche, or scattering area, the form may indicate that the
40 cremated remains will be held by the crematory authority for
41 not longer than thirty (30) days from the date of cremation
42 before the remains are released. The form may indicate that

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the crematory authority shall return cremated remains that have not been disposed of within thirty (30) days to the funeral director or funeral home of record who shall hold them for not longer than sixty (60) days from the date of cremation before disposing of the cremated remains either as previously authorized or, if there is no authorization, in any legal manner.

The funeral home has no liability for:

(i) disposing of cremated remains in any manner permitted by law if the remains have been held; or

(ii) holding the cremated remains;

in excess of the sixty (60) days permitted under this clause if the authorizing agent fails to claim the remains during the sixty (60) day period. The funeral home must first send written notice by certified mail return receipt requested to the authorizing agent explaining the intentions of the funeral home regarding the disposal of or holding of the cremated remains in order for the funeral home to be immune from liability under this clause.

(I) A statement confirming the identity of the valuables belonging to the decedent previously taken and being held by the funeral director or the funeral home.

(J) A statement prohibiting the crematory from selling nonorganic material recovered from the human remains.

(K) A statement that the authorizing agent has made specific arrangements for any viewing of the decedent before cremation, or for a service with the decedent present before cremation. If a viewing or service is planned, the date and time of the viewing or service and whether the crematory authority is authorized to proceed with the cremation upon receipt of the human remains.

(L) The signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form.

(2) A completed and executed burial transit permit provided by the local health officer to the funeral director indicating that the human remains are to be cremated.

(3) A copy of:

(A) the completed and executed certificate of death; or

(B) a release for cremation by the coroner if an investigation of the circumstances of the deceased person's death came under the authority of the coroner, but the release does not constitute an authorization as required by this chapter.

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(b) The cremation authorization form required under subsection (a)(1) must be signed by the funeral director who obtained the cremation authorization. The funeral director shall execute the cremation authorization form as a witness and is not responsible for the representations made by the authorizing agent unless the funeral director has actual knowledge of a false or inaccurate representation. The funeral director shall certify to the crematory that the human remains delivered to the crematory authority are the human remains identified by the authorizing agent on the cremation authorization form.

(c) Notwithstanding subsection (a)(3)(A), a death certificate is not required for the cremation of the remains of a person:

- (1) who died in another state; and
- (2) whose remains are transported to Indiana by:
 - (A) a licensed funeral director; or
 - (B) the agent of a licensed funeral director;

for the purpose of cremation at an Indiana crematory; if the funeral director or funeral director's agent obtains the documents required for cremation by the state in which the death occurred. However, if final disposition of the human remains is to occur in Indiana, the provisions of subsection (a)(3)(A) shall apply.

SECTION 5. IC 23-14-31-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. (a) Except for the information required under section 27(a)(1)(F) of this chapter, an authorizing agent who signs a cremation authorization form certifies that the facts on the cremation authorization form are true and that the authorizing agent has authority to order the cremation.

(b) An authorizing agent who signs a cremation authorization form is personally liable for damages resulting from authorizing the cremation.

(c) The authorizing agent is responsible for the ~~final~~ disposition of a decedent's cremated remains. The crematory authority may hold the cremated remains for not longer than the thirty (30) day period under section 45 of this chapter.

SECTION 6. IC 23-14-31-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 43. The authorizing agent is responsible for the decision concerning ~~final~~ disposition of the cremated remains in accordance with sections 44 and 45 of this chapter. The funeral director is not liable for an act of the authorizing agent.

SECTION 7. IC 23-14-31-52 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 52. (a) Except as provided in subsections (b), (c), and (d), a person that knowingly or

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intentionally violates this chapter commits a Class B misdemeanor.

(b) A person that knowingly or intentionally:

(1) performs a cremation without receipt of a cremation authorization form signed by an authorizing agent;

(2) signs a cremation authorization form that the individual knows contains false or incorrect information; or

(3) violates a cremation procedure under sections 36 through 42 of this chapter;

commits a Class D felony.

(c) A crematory authority that knowingly represents to an authorizing agent or the agent's designee that a temporary container or urn contains the cremated remains of a specific decedent when the container or urn does not commits a Class D felony.

(d) A person:

(1) who:

(1) (A) professes to the public to be a crematory authority; or

(2) (B) operates a building or structure in Indiana as a crematory;

without being registered under section 22 of this chapter; or

(2) who fails to file an annual report required under section 24 of this chapter;

commits a Class A misdemeanor.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1151, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 6, after "manner." insert "**The funeral home has no liability for:**

(i) disposing of cremated remains in any manner permitted by law if the remains have been held; or

(ii) holding the cremated remains;

in excess of the sixty (60) days permitted under this clause if the authorizing agent fails to claim the remains during the sixty (60) day period. The funeral home must first send written notice by certified mail return receipt requested to the authorizing agent explaining the intentions of the funeral home regarding the disposal of or holding of the cremated remains in order for the funeral home to be immune from liability under this clause."

and when so amended that said bill do pass.

(Reference is to HB 1151 as introduced.)

WEINZAPFEL, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1151 be amended to read as follows:

Page 5, line 6, reset in roman "or".

Page 5, line 8, delete "or".

Page 5, delete lines 9 through 11.

Page 5, delete lines 17 through 21, begin a new paragraph and insert:

"(d) A person:

(1) who:

~~(1)~~ **(A)** professes to the public to be a crematory authority; or

~~(2)~~ **(B)** operates a building or structure in Indiana as a crematory;

without being registered under section 22 of this chapter; **or**

(2) who fails to file an annual report required under section 24 of this chapter;

commits a Class A misdemeanor."

(Reference is to HB 1151 as printed February 11, 2003.)

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